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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,905	07/10/2006	Isto Heiskanen	0696-0226PUS1	3871
2292 7590 06/26/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER THOMPSON, CAMIE S				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
06/26/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

# Office Action Summary

## Application No.

10/562,905

## Applicant(s)

HEISKANEN ET AL.

## Examiner

Camie S. Thompson

## Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 3/25/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date 3/25/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's amendment and accompanying remarks filed February 17, 2009 and March 25, 2009 are acknowledged.
2. Examiner acknowledges amended claims 1, 14-15 and 18-19.
3. Examiner acknowledges newly added claims 20-29.
4. Examiner acknowledges cancelled claims 2-3.
5. The rejection of claim 11 under 35 U.S.C. 103(a) as being unpatentable over Akao, U.S. Patent Number 4,784,906 in view of Penttinen et al., U.S. Patent Number 2003/0059591 and in further view of Rohlf et al., U.S. Patent Number 6,489,040 is withdrawn due to applicant's argument.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
7. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 29 is rendered indefinite because the claim is dependent upon claim 19, which is drawn to a method for autoclave treatment of a product package. Claim 19 is not drawn to a combination of a product and the package.

*Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-10 and 12-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Rohlf et al., U.S. Patent Number 6,489,040.

Rohlf discloses a wallboard comprising paper cover sheets that have a size such as alkenyl succinic anhydride (ASA) (see column 3, lines 50-65). Additionally, the reference discloses that the cover sheets comprise a wet-strength size such as polyamide epichlorohydrin resin (see column 3, lines 66-67). It is disclosed in column 5, lines 49-52 that the wet strength resin is added in the amount of 1 to 25 pounds per ton (.1-.25 kg/ton). It is disclosed in column 6, lines 15-16 that alum is added in the amount of 0 to 30 pounds per ton and ASA is added in the amount of 1 to 25 pounds per ton (see reference claim 1). The reference discloses in column 7, lines 35-68 that a polymer material is added to board material. It is disclosed in column 4, lines 45-64 that the board is in a fibrous envelope. Rohlf discloses that the board is heated under pressure at temperatures of about 150-200 degrees for about 45 minutes. Column 6, lines 23-25 discloses that the assembled sheet is calendared. The sizing composition in the Rohlf reference is added in order to improve the wet strength of the fibrous material.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penttinen et al., U.S. Pre Grant Publication 2006/0280941 in view of Rohlf et al., 6,489,040.

Penttinen exhibits in Figure 8 a packaging material having a structure in the following order: a polymeric heat sealable layer; a white pigmented polymer layer; a polymer layer containing black pigment; a treated fiber substrate (board); a polymer barrier layer; an oxygen barrier layer; a binder layer; a grey-pigmented polymer light shielding layer and a polymeric heat sealable layer as required by present claim 11. Penttinen does not disclose that the package is treated with a sizing composition. Penttinen discloses that the fibrous material is treated (see paragraph 0014). Rohlf discloses a wallboard comprising a fibrous material that has a size such as alkenyl succinic anhydride (ASA) (see column 3, lines 50-65). Additionally, the reference discloses that the cover sheets comprise a wet-strength size such as polyamide epichlorohydrin resin (see column 3, lines 66-67). It is disclosed in column 5, lines 49-52 that the wet strength resin is added in the amount of 1 to 25 pounds per ton (.1-.25 kg/ton). It is disclosed in column 6, lines 15-16 that alum is added in the amount of 0 to 30 pounds per ton and ASA is added in the amount of 1 to 25 pounds per ton (see reference claim 1). The addition of the size is to improve wet strength. The addition of a sizing composition to a packaging material affects

penetration of the packaging material. Therefore, it would have been obvious to one of ordinary skill in the art to provide the sizing composition of the Rohlf reference onto the Penttinen packaging material in order to inhibit liquid penetration into the packaging material and improve wet strength.

***Response to Arguments***

12. Applicant's arguments filed February 17, 1009 have been fully considered but they are not persuasive. Applicant argues that the Rolf reference does not disclose a product package. Rohlf discloses a product that comprises that has a fibrous base that has an alkenyl succinic anhydride hydrophobic size and a polyamide epichlorohydrin wet-strength size wherein the polyamide epichlorohydrin is present in the mount of 0.1-.25 kg/ton. Also, Rohlf discloses that the hydrophobic size has alum that is added in the amount of 0 to 30 pounds per ton. Rohlf discloses a product that has the same components of the product of the present claims. Additionally, the hydrophobic size of the Rohlf reference is added to the fibrous material to improve the wet strength of the fibrous material, which is for the same purpose as the hydrophobic size in the present claims. Applicant is arguing intended use. The use of a product is not given any patentable weight. The rejections are maintained.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camie S. Thompson whose telephone number is 571-272-1530. The examiner can normally be reached on Monday-Friday 8:00 am - 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/  
Supervisory Patent Examiner, Art Unit 1794

Camie S Thompson  
Examiner  
Art Unit 1794